

Paul T. Trimmer

Nevada State Bar No. 9291
JACKSON LEWIS, P.C.
3800 Howard Hughes Pkwy., Suite 600
Las Vegas, NV 89169
Tel: (702) 921-2460
Email: trimmerp@jacksonlewis.com

Veronica T. von Grabow
Admitted pro hac vice
950 17th Street, Suite 2600
Denver, CO 80202
Tel: (303) 225-2419
Email: veronica.vongrabow@jacksonlewis.com

Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CARIENE CADENA and ANDREW
GONZALES, on behalf of themselves
and all others similarly situated,

Plaintiffs,

vs.

CUSTOMER CONNEXX LLC; ARCA,
INC.; and DOES 1 through 50, inclusive,

Defendants.

Case No. 2:18-cv-00233-APG-DJA

**DEFENDANTS' RESPONSE IN
OPPOSITION TO PLAINTIFFS'
OBJECTION TO
THE FEBRUARY 19, 2020 ORDER**

Defendants Customer Connexx, LLC and Appliance Recycling Centers of America, Inc. ("Defendants"), by and through their undersigned counsel, respectfully submit this Response in opposition to Plaintiffs' Objection to the Portion of the Court's February 19, 2020 Order Allowing Individualized Discovery of Collective Action Opt-ins (ECF No. 56) ("Objection"). For all the reasons set forth herein, Plaintiffs' Objection should be denied.

1 **I. BACKGROUND**

2 This case was filed over two years ago on January 3, 2018. (ECF No. 1-1). Plaintiffs¹ allege
3 they have not been paid adequately for time spent booting up and booting down their computers at
4 the start and end of the workday. (ECF No. 46 ¶¶ 17-18.) Plaintiffs seek to bring this suit on behalf
5 of themselves and all other employees of Defendants, as an opt-in collective action under the Fair
6 Labor Standards Act (“FLSA”) and as an opt-out class action under Rule 23. (*Id.* ¶¶ 25-26.)

7
8 On February 5, 2019, Plaintiffs moved for authorization to send notice to putative members
9 of the collective action pursuant to 29 U.S.C. § 216(b). (ECF No. 19.) In response, Defendants
10 argued, among other things, that Plaintiffs’ proposed notice “fails to explain opt-in plaintiffs’
11 obligations should they join the suit, such as participating in written discovery, depositions, and
12 trial.” (ECF No. 25 at 16.) In reply, Plaintiffs argued the notice should not contain any language
13 explaining that opt-in plaintiffs have discovery obligations. (ECF No. 26 at 11.) The Court rejected
14 Plaintiffs’ argument, stating: “The Notice shall include an opt-in period of ninety (90) days, *and*
15 *shall inform the recipients of their obligation to participate in discovery or appear at trial if they*
16 *opt-in.*” (ECF No. 28 at 10.) Accordingly, the Notice that was agreed on by the Parties informed
17 all putative members of the collective action: “By joining this case, you may be required to respond
18 to written discovery, appear for a deposition, or testify at trial.” (ECF No. 29 at 5.)

19
20 On January 7, 2020, the Parties filed a Revised Joint Discovery Plan.² (ECF No. 41.)
21 Therein, Plaintiffs argued that written and oral discovery should be limited to “a representative
22 sampling of 10% of the opt-in plaintiffs who have signed consent to join forms.” (*Id.* at 4-5.) At
23 that time, only 18 individuals had submitted consent forms to opt-in. (*Id.* at 3.) Given that 10% of
24

25
26 ¹ The original Named Plaintiff, Danielle Curley, stopped communicating with her counsel on or
27 around June 2019 (ECF No. 48 at 3), and the Court granted leave for Plaintiffs to substitute Cariene
Cadena and Andrew Gonzales as the named Plaintiffs. (ECF No. 45.)

28 ² An earlier Stipulated Discovery Plan was vacated. (*See* ECF Nos. 16, 27.)

18 is 1.8, Plaintiffs’ proposal would have limited Defendants to taking only two depositions of opt-in plaintiffs. At that time, Defendants had deposed exactly two opt-in plaintiffs, Cariene Cadena and Andrew Gonzales. (ECF Nos. 39-1, 39-2.) Thus, Plaintiffs’ proposal would have effectively ended Defendants’ ability to conduct discovery. Defendants argued that Plaintiffs’ proposed limits were inappropriate. (ECF No. 41 at 5-7.) Nevertheless, in an effort to be reasonable, Defendants volunteered “to limit written discovery on opt-in plaintiffs to fifteen interrogatories and fifteen requests for production per plaintiff, which is less than normally allowed under Federal Rules 33 and 34” and “to limit depositions of opt-in plaintiffs to four hours per plaintiff, which is less than normally allowed under Rule 30(d).” (*Id.* at 5.)

On January 17, 2020, the Honorable United States Magistrate Judge Daniel J. Albregts “approved[d] Defendants’ positions set forth on page 5-7 [of the Revised Joint Discovery Plan],” reasoning that “individualized discovery in this collective action is relevant and proportional to the needs of this matter, especially given the number of opt-in plaintiffs is relatively small.” (ECF No. 45 at 4-5.) Currently, there are only 20 opt-in plaintiffs who have filed consent forms.³

On January 27, 2020, Plaintiffs filed a Motion for Reconsideration.⁴ (ECF No. 50.) Therein, Plaintiffs’ argued that Magistrate Judge Albregts’ decision was clear error and that Defendants’ ability to conduct written and oral discovery should be limited to a so-called “statistically significant

³Plaintiffs filed eighteen consent forms on September 13, 2019. (ECF No. 35.) Plaintiffs filed two more consent forms in January 2020. (ECF Nos. 43, 47.) Pursuant to the Court’s Order on conditional certification, individuals who filed consent forms after the September 3, 2019 deadline were required to show “good cause” and obtain leave of court to participate. (ECF No. 28 at 10-11; *see also* ECF No. 30.) Plaintiffs never did so.

⁴ Local Civil Rule 26-7 states that discovery motions will not be considered unless the movant has “made a good faith effort to meet and confer” prior to filing. Although it is unclear whether that Rule applies to a motion for reconsideration of or objection to a discovery plan, Defendants note that Plaintiffs did not confer with Defendants prior to filing the Motion for Reconsideration or the instant Objection.

1 representative sampling of opt-in plaintiffs.”⁵ (*Id.* at 3-4.) Defendants timely submitted their
 2 response in opposition to Plaintiffs’ Motion for Reconsideration. (ECF No. 51.)

3 On February 19, 2020 Magistrate Judge Albregts’ issued an order denying Plaintiffs’
 4 Motion for Reconsideration, which is the subject of Plaintiffs’ instant Objection. The Court held
 5 Plaintiffs’ failed to satisfy the grounds for reconsideration, finding Plaintiffs “[did] not set forth a
 6 valid reason why the Court should reconsider its Order [concerning the discovery plan]” and,
 7 “[i]ndeed, [did not] argue any of the [circumstances for reconsideration] apply.” (ECF No. 55 at
 8 5.) Moreover, the Court aptly found, “[t]o the extent the Plaintiffs are attempting to argue the Court
 9 committed clear error or the initial decision was manifestly unjust, they significantly misrepresent
 10 the extent of the Court’s Order and relevant case law.” *Id.*

12 Thereafter, Plaintiffs filed the instant Objection to Magistrate Judge Albregts’ February 19,
 13 2020 Order denying the Motion for Reconsideration.

14 **II. STANDARD OF REVIEW**

15 A magistrate judge may hear and determine any pretrial matter, subject to certain exceptions
 16 that do not apply here. 28 U.S.C.S. § 636(b)(1)(A); *accord* Local Rule IB 1-3 (“A magistrate judge
 17 may hear and finally determine any pretrial matter not specifically enumerated as an exception in
 18 28 U.S.C. § 636(b)(1)(A).”). The district judge may reconsider such pretrial matters only “where
 19 it has been shown that the magistrate judge’s order is clearly erroneous or contrary to law.” 28
 20 U.S.C.S. § 636(b)(1)(A); *accord* Local Rule IB 3-1(a). “This standard of review is significantly
 21 deferential to the initial ruling.” *Crown Bevs., Inc. v. Sierra Nev. Brewing Co.*, No. 3:16-cv-695-
 22 MMD-VPC, 2017 U.S. Dist. LEXIS 63146, at *16 (D. Nev. Apr. 26, 2017). “A magistrate judge’s
 23
 24
 25

26 ⁵ Plaintiffs did not provide any expert evidence showing what sample size can be considered
 27 “statistically significant” in this case. Presumably, they are renewing their request to limit
 28 Defendants’ ability to conduct discovery to 10% of the opt-in plaintiffs, as that was the position
 that Magistrate Judge considered and rejected.

1 pretrial order issued under 28 U.S.C. § 636(b)(1)(A) is not subject to *de novo* review,” and the
2 reviewing district judge “may not simply substitute its judgment for that of the deciding court.” *Id.*
3 at *16-17 (quotation omitted). Further, a magistrate judges has “broad discretion” to make rulings
4 on discovery matters. *Id.* at *19. Objections to an order issued by a Magistrate Judge must be made
5 within 14 days after service of the order. Fed. R. Civ. Proc. 72(a).

6 **III. ANALYSIS**

7 **A. Plaintiffs’ Objection is Untimely and Meritless**

8
9 As an initial matter, it is important to discern to which Magistrate Judge order Plaintiffs are
10 objecting. Plaintiffs’ inaccurately frame their objection as pertaining to “Magistrate Judge
11 Albregts’ February 19 2020 Order granting Defendants’ request to allow individualized discovery
12 of all collective action opt-ins.” (ECF No. 56 at 1.) To be clear, the February 19 Order was to *deny*
13 Plaintiffs’ Motion for Reconsideration; it did not *grant* Defendants’ discovery request. (*See* ECF
14 No. 55.) Indeed, Plaintiffs’ Objection focuses exclusively on issues concerning the scope of opt-in
15 discovery that was decided by Magistrate Judge Albregts in the January 17 Order. Since the order
16 granting Defendants discovery request was issued on January 17, 2020 (ECF No. 45), Plaintiffs
17 objection to it is untimely. Fed. R. Civ. Proc. 72(a).

18
19 Moreover, Plaintiffs’ Objection fails to identify specific objections to the order denying
20 reconsideration, as required by Rule 72(a). Plaintiffs’ Objection does not even address the standard
21 for reconsideration, much less argue the Magistrate Judge in any way misapplied it. (*See* ECF No.
22 56.) Nor can they credibly do so. Magistrate Judge Albregts correctly found that Plaintiffs’ Motion
23 for Reconsideration did not argue that any of the circumstances for reconsideration applied. (ECF
24 No. 55 at 5.) Magistrate Judge Albregts also found that the January 17 Order was not clearly
25 erroneous or manifestly unjust based on legal precedent, the number of opt-ins, and the
26 proportionality of discovery for the needs of this case. *Id.* Plaintiffs’ Objection fails to identify
27
28

1 how the February 19 Order denying reconsideration on these grounds is “clearly erroneous or
2 contrary to law.” As such, Plaintiffs’ Objection should be overruled.

3 **B. Plaintiffs’ Objection to the Discovery Plan Should Be Overruled**

4 To the extent the Court considers Plaintiffs’ untimely objection to the discovery plan, their
5 objection should still be overruled. Parties to litigation are subject to discovery under the Federal
6 Rules of Civil Procedure, and Plaintiffs Objection seeks to impose blanket restrictions on
7 Defendants’ right to conduct basic discovery on party witnesses. In FLSA collective actions, an
8 individual becomes a “party plaintiff” when he or she files a consent form to join the action. 29
9 U.S.C. § 216(b). “The FLSA leaves no doubt that every plaintiff who opts in to a collective action
10 has party status.” *Campbell v. City of L.A.*, 903 F.3d 1090, 1104 (9th Cir. 2018) (quotation omitted).
11 Once an opt-in plaintiff files a consent form, “there is no statutory distinction between the roles or
12 nomenclature assigned to the original and opt-in plaintiffs.” *Id.*

13 As recognized in recent FLSA cases in this district, it is permissible for defendants to
14 perform discovery on all opt-in plaintiffs, particularly in cases where – as here – the opt-in class is
15 relatively small. Certainly, “there is no *per se* rule that requires the court to limit discovery to a
16 representative sampling in the context of a class action under the Fair Labor Standards Act.”
17 *Sullivan v. Riviera Holdings Corp.*, No. 2:14-cv-165-APG-VCF, 2015 U.S. Dist. LEXIS 192558,
18 at *5 (D. Nev. Apr. 20, 2015) (rejecting the plaintiffs’ assertion that “individualized discovery is
19 rarely appropriate” in FLSA collective actions). “While the decisions on individualized discovery
20 are highly fact-specific, common considerations are the number of opt-in plaintiffs and the type of
21 discovery being requested, with individualized discovery being permitted more frequently in cases
22
23
24
25
26
27
28

1 with relatively few plaintiffs and targeted written discovery.” *Slack v. Parball Newco, LLC*, No.
 2 2:16-cv-02324-KJD-CWH, 2018 U.S. Dist. LEXIS 49050, at *8 (D. Nev. Mar. 26, 2018)).⁶

3 In *Slack*, there were three named plaintiffs and 80 opt-in plaintiffs. *Id.* at *3. The plaintiffs
 4 argued that discovery “should be limited to a 10 percent sample” of opt-in plaintiffs. *Id.* at *6-7.
 5 The court decided to “allow individualized discovery on all named plaintiffs and opt-in plaintiffs.”
 6 *Id.* at *11. The court reasoned that the “the size of the opt-in class is relatively small.” *Id.* at *10.
 7 The court compared cases allowing individualized discovery with up to a few hundred plaintiffs
 8 with cases limiting discovery to sample where there were thousands of opt-in plaintiffs:
 9

10 *Compare Abubakar v. City of Solano*, No. 06-cv-2268-LKK-EFB, 2008 U.S. Dist.
 11 LEXIS 17456, 2008 WL 508911, at *1 (E.D. Cal. Feb. 22, 2008) (allowing
 12 individualized discovery for all 150 opt-in plaintiffs, including requests for
 13 production and interrogatories), and *Ingersoll v. Royal & Sunalliance USA, Inc.*,
 14 No. 05-cv-1744-MAT, 2006 U.S. Dist. LEXIS 50912, 2006 WL 2091097, at *3
 15 (W.D. Wash. July 25, 2006) (allowing individualized discovery from named
 16 plaintiffs and all 34 opt-in plaintiffs), and *Coldiron v. Pizza Hut, Inc.*, No. CV03-
 17 05865TJHMCX, 2004 U.S. Dist. LEXIS 23610, 2004 WL 2601180, at *2 (C.D.
 18 Cal. Oct. 25, 2004) (allowing individualized discovery for all 306 opt-in plaintiffs,
 19 including interrogatories, requests for production of documents, and requests for
 20 admission), with *Cardoza v. Bloomin' Brands, Inc.*, 141 F. Supp. 3d 1137 (D. Nev.
 21 2015) (limiting discovery to ten percent of approximately 9,500 opt-in plaintiffs,
 22 including interrogatories, requests for production, and requests for admission on
 23 randomly-selected opt-in plaintiffs, and a total of 95 depositions of opt-in plaintiffs
 24 who were chosen for written discovery), and *Smith*, 236 F.R.D. at 358 (limiting
 25 discovery to a statistically-significant sample of 1,500 opt-in plaintiffs, without
 26 prejudice for defendants to move to expand the number), and *Wellens v. Daiichi*
 27 *Sankyo Inc.*, No. C-13-00581-WHO (DMR), 2014 U.S. Dist. LEXIS 177877, 2014
 28 WL 7385990, at *4 (N.D. Cal. Dec. 29, 2014) (limiting discovery to approximately
 forty percent of a class of 213 opt-in plaintiffs, including full discovery of named
 plaintiffs, declarations from 39 opt-in plaintiffs, depositions of 25 opt-in plaintiffs,
 and interrogatory responses from 37 opt-in plaintiffs), and *Cranney*, 2008 U.S.
 Dist. LEXIS 113606, 2008 WL 2457912, at *3 (limiting individualized discovery

⁶ Plaintiffs argued that Magistrate Judge Albregts’ Order is in “direct contradiction” of “the district-
 wide practice of limiting individualized discovery in collective actions.” (ECF No. 50 at 2.) The
Slack and *Sullivan* opinions from this district, issued in 2018 and 2015, clearly indicate that there
 is no “district-wide” practice of limiting discovery in collective actions. Plaintiffs cite only two
 decisions from this district; both are factually distinguishable and quickly becoming outdated. (*Id.*
 at 7-8 (citing *Cranney v. Carriage Servs., Inc.*, 2008 WL 2457912 (D. Nev. June 16, 2008);
Coleman v. Circus Circus Casinos, Inc., 2006 WL 8441914, at *8 (D. Nev. Jan. 26, 2006)).

1 to ten percent of approximately 300 opt-in plaintiffs, including interrogatories and
 2 requests for production of documents), *and Davis v. Westgate Planet Hollywood*
 3 *Las Vegas, LLC*, No. 2:08-cv-00722-RCJ-PAL, 2010 U.S. Dist. LEXIS 80787,
 4 2010 WL 2872406, at *3-4 (D. Nev. 2010) (limiting discovery to ten percent of
 approximately 500 opt-in plaintiffs, including interrogatories, requests for
 production of documents, and depositions of 10 opt-in plaintiffs).

5 *Slack*, 2018 U.S. Dist. LEXIS 49050, at *8-10; *see also Sullivan*, 2015 U.S. Dist. LEXIS 192558,
 6 at *6 (allowing individualized discovery in case with 30 opt-in plaintiffs).

7 In this case, there are only 20 opt-in plaintiffs, which is clearly not enough to justify harsh
 8 limits and sampling. This opt-in class of 20 plaintiffs is even fewer than in other cases allowing
 9 individualized discovery, such as *Slack* (80 opt-in plaintiffs), *Sullivan* (30 opt-in plaintiffs),
 10 *Abubakar* (150 opt-in plaintiffs), *Ingersoll* (34 opt-in plaintiffs), and *Coldiron* (306 opt-in
 11 plaintiffs). This case is not remotely close in size to the cases finding that discovery should be
 12 limited to a sample of plaintiffs, such as *Cardoza* (9,500 opt-in plaintiffs), *Smith* (1,500 opt-in
 13 plaintiffs), *Wellens* (213 opt-in plaintiffs), *Cranney* (300 opt-in plaintiffs), and *Davis* (500 opt-in
 14 plaintiffs).
 15 plaintiffs).

16 Cases with hundreds or thousands of opt-in plaintiffs are obviously distinguishable. The
 17 *Cranney* opinion, which is the crux of plaintiffs' Objection, has been distinguished under similar
 18 circumstances by a judge in this district. *See Sullivan*, 2015 U.S. Dist. LEXIS 192558, at *6
 19 ("Cranney, like the remaining cases on which Plaintiffs rely, is factually distinguishable because
 20 this action merely involves thirty plaintiffs."). Plaintiffs' reliance on *Cranney* is misplaced here,
 21 and they have not identified any cases (in this district or otherwise) where sampling limitations
 22 were applied to an opt-in class as small as the one in this case.
 23

24 All of the cases cited above, including *Slack* and *Sullivan*, directly support Magistrate Judge
 25 Albregts's conclusion that "individualized discovery in this collective action is relevant and
 26 proportional to the needs of this matter, *especially given the number of opt-in plaintiff is relatively*
 27 *small.*" (ECF No. 45 at 4-5 (emphasis added)). It is untenable for Plaintiffs to argue that Magistrate
 28

1 Judge Albregts' Order was "clearly erroneous or contrary to the law" in light of all the case law
2 supporting his conclusion.

3 Looking beyond the size of the opt-in class, other factors in this case likewise favor
4 individualized discovery, including (1) "most of the opt-in plaintiffs reside in Las Vegas,"⁷ (2) "the
5 opt-in plaintiffs chose to participate in this lawsuit knowing that they may be required to respond
6 to discovery,"⁸ and (3) "the parties agreed to conduct discovery in a single phase, making this the
7 only opportunity for the parties to discover evidence supporting the claims and defenses in this
8 matter."⁹ *Slack*, 2018 U.S. Dist. LEXIS 49050, at *11.

10 Moreover, "fairness dictates that defendants should be permitted to conduct enough
11 discovery to move for decertification and to support their defenses." *Id.* at *10 (D. Nev. Mar. 26,
12 2018). Plaintiffs are pursuing collective and class action claims against Defendants. Plaintiffs may
13 seek to present testimony of opt-in plaintiffs at various stages in this litigation, including FLSA
14 decertification, Rule 23 certification, summary judgment, and at trial. If Defendants are not given
15 any opportunity to perform discovery on party witnesses who will testify against Defendants,
16 Defendants' ability to defend themselves will be impeded to a severe degree.

18 Plaintiffs' proposal is inherently unreasonable. If Defendants are limited to deposing 10%
19 of the 20 opt-in plaintiffs, then Defendants will be limited to taking only two depositions.
20 Defendants have already taken two depositions of opt-in plaintiffs, and therefore Defendants' right
21

22
23 ⁷ Of the opt-in plaintiffs who filed consent forms in September 2019, 17 out of 18 live in Las Vegas,
24 North Las Vegas, or Henderson, Nevada. (*See* ECF No. 35.) The two opt-in plaintiffs who filed
25 consent forms in January were also residents of Las Vegas, at least as reflected on the class list
26 produced to Plaintiffs to send out notices. Thus, 19 out of 20 (95%) of the opt-in plaintiffs reside
27 locally and should be able to appear for a deposition without significant travel.

28 ⁸ As noted earlier, the collective action notice stated: "By joining this case, you may be required to
respond to written discovery, appear for a deposition, or testify at trial." (ECF No. 29 at 5.)

⁹ In the Joint Discovery Plan, there is no bifurcation of discovery; all discovery is being completed
in a single phase. (*See* ECF No. 41 at 3-4, 8.)

1 to conduct discovery would effectively be ended under Plaintiffs' proposal. Even if this were a
 2 routine case, Defendants would have the right to depose each party to the case and take up 10
 3 depositions without leave of court, serve 25 written interrogatories on each party to the case, and
 4 serve an unspecified number of requests for production on each party to the case. *See* Fed. R. Civ.
 5 P. 30(a)(1), 33(A)(1), 34(a). Plaintiffs' proposal would severely restrict Defendants to serving
 6 discovery and taking depositions on only two party witnesses, which is blatantly unreasonable in a
 7 class action and collective action case. These blanket restrictions on Defendants' discovery rights
 8 would be contrary to the Federal Rules on depositions and written discovery and to the overall
 9 scope of discovery allowed by the Federal Rules. *See* Fed. R. Civ. P. 26(b)(2) (providing that
 10 "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's
 11 claim or defense and proportional to the needs of the case"). The severe restrictions proposed by
 12 Plaintiffs are so grave that they would violate Defendants' Due Process rights.¹⁰ Plaintiffs' argue
 13 that Magistrate Judge Albregtss' Order was clear error, but in reality it would be clear error to adopt
 14 the harsh restrictions proposed by Plaintiffs.

15
 16
 17 Lastly, Plaintiffs are seeking broad, categorical restrictions on Defendants' right to conduct
 18 discovery on opt-in plaintiffs. Magistrate Judge Albregtss's discovery plan does not prohibit
 19 Plaintiffs from lodging an objection to a particular discovery request if they believe the particular
 20 request seeks information that is privileged, irrelevant, disproportionate, or otherwise outside the
 21 scope of discovery. Plaintiffs' use hyperbolic language to describe *anticipated* discovery as seeking
 22 "documents likely required to be kept by the defendant-employer and not the employee,"
 23

24
 25 ¹⁰ *See Gen. Signal Corp. v. MCI Telecomms. Corp.*, 66 F.3d 1500, 1508 (9th Cir. 1995) (indicating
 26 that denial of the right to cross-examine is a denial of due process); *Clutchette v. Procunier*, 497
 27 F.2d 809, 818-19 (9th Cir. 1974) ("[I]n almost every setting where important decisions turn on
 28 questions of fact, due process requires an opportunity to confront and cross-examine adverse
 witnesses." (quotation omitted)); *Harries v. United States*, 350 F.2d 231, 236 (9th Cir. 1965) ("The
 right to cross examine a witness is fundamental in our judicial system.").

1 “burdensome,” “excessive, time consuming, and unproportionate,” and “*a weapon* designed to
 2 overwhelm and intimidate.” (ECF No. 56.) But Plaintiffs have not identified any particular
 3 discovery requests that are objectionable. If Plaintiffs are served with particular discovery requests
 4 that they view are objectionable, there are procedural options available to dispute those particular
 5 requests under the Federal Rules and Local Rules of this District. The Court need not address those
 6 issues at this time. *See Slack*, 2018 U.S. Dist. LEXIS 49050, at *11-12 (allowing discovery on opt-
 7 in plaintiffs but deferring resolution of issues with respect to particular discovery requests).
 8

9 IV. CONCLUSION

10 For all of the reasons set forth above, Defendants respectfully request that the Court deny
 11 Plaintiffs’ Objection.

12 Respectfully submitted this 12th day of March, 2020.

14 /s/ Veronica T. von Grabow

15 Paul T. Trimmer
 16 Nevada State Bar No. 9291
 17 JACKSON LEWIS, P.C.
 18 3800 Howard Hughes Pkwy., Suite 600
 19 Las Vegas, NV 89169
 20 Tel: (702) 921-2460
 21 Email: trimmerp@jacksonlewis.com

22 Veronica T. von Grabow
 23 *Admitted pro hac vice*
 24 950 17th Street, Suite 2600
 25 Denver, CO 80202
 26 Tel: (303) 225-2419
 27 Email: veronica.vongrabow@jacksonlewis.com

28 *Attorneys for Defendants*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Jackson Lewis P.C., and that on this 12th day of March, 2020, I caused to be served via the Court's CM/ECF Filing, a true and correct copy of the above foregoing document properly addressed to the following:

Mark R. Theirman, Esq.
Joshua D. Buck, Esq.
Leah L. Jones, Esq.
THIERMAN BUCK LLP
7287 Lakeside Drive
Reno, NV 89511

Attorneys for Plaintiffs

/s/ Veronica T. von Grabow
Employee of Jackson Lewis P.C.
4824-7604-4727, v. 1